

TESTIMONY TO THE HOUSE COMMITTEE ON AGRICULTURE

By

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Re: USDA Forest Service 2005 Forest Planning Rule

Mr. Chairman and Members of the Committee, my name is Perry Brown. I am the Dean of the College of Forestry and Conservation and Director of the Montana Forest and Conservation Experiment Station at The University of Montana, located in Missoula, Montana. We are a fairly comprehensive natural resources college and experiment station with programs in forest and range management, wildlife biology, outdoor recreation, wilderness studies, and conservation. In my 34 year career I have taught and researched topics of natural resource policy, land use planning, and outdoor recreation planning and management. As an academic working at Utah State University, Colorado State University, Oregon State University and The University of Montana I have worked very closely with both the USDA Forest Service and the USDI Bureau of Land Management.

Need for a New Forest Planning Rule

The basic forest planning rule developed to implement the National Forest Management Act dates from 1979, with slight amendments in 1982. Attempts have been made to modify the rule over the ensuing several years (early 1990s, 2000, and 2002). A final new rule, somewhat based on the draft promulgated in 2002, took effect on January 5, 2005.

Since the 1982 amendment of the 1979 rule, much experience has been gained and a lot has changed. Science has made advancements on many fronts, new technologies for analysis, planning and management have been developed, and changing perspectives among people about natural resource priorities have occurred. All of these provide important insight into the need to modify the rule to bring it to the current knowledge base, current technology base, and the current perspectives on natural resources of the American people.

In the context of the need to change the rule, one often hears lament about the number of court cases filed in response to failures of the previous forest planning rule, but such lament is far less important for changing the rule than science, technology, and perspectives. These various court cases speak less of a need to change the rule, than a need to follow it.

At the beginning of the 21st Century, the time is ripe for updating the rule. The rule that has been promulgated is supposed to do the following:

This final rule describes the National Forest System land management planning framework; establishes requirements for sustainability of social, economic, and ecological systems and developing and amending, revising, and monitoring land management plans; and clarifies that land management plans under this final rule, absent extraordinary circumstances, are strategic in nature and are one stage in an adaptive cycle of planning for management of National Forest System lands. The intended effects of the final rule are to streamline and improve the planning process by making plans more adaptable to changes in social, economic, and environmental conditions; to strengthen the role of science in planning; to strengthen collaborative

relationships with the public and other governmental entities; and to reaffirm the principle of sustainable management consistent with the Multiple-Use Sustained-Yield Act and other authorities. (Federal Register/Vol. 70, No. 3/January 5, 2005/ p. 1023)

These are laudable objectives, and the new rule should strive to fulfill them.

What About the New Rule?

In my view, the new rule does not measure up to its aspirations. Why is this so?

One cynic might posit that the new rule is designed to sink the Forest Service, to be part of a plan to generate evidence that the Forest Service cannot work and thus to do away with the Forest Service. Another might posit that if one were to design a system to take the public out of forest planning, to avoid the hard work of effective planning, to avoid the courts so that “experts” make unchallenged decisions for us, and to do something that does not really matter, this is a great planning rule. These are a couple of the cynical positions. I have no idea how much truth is in either of them, but the new rule certainly could lead to cynicism given its vagueness, contradictions, and apparent flaunting of the American people’s widespread interest in participatory democracy in the natural resources arena.

One question that comes to mind, is this really a planning rule or a non-planning rule? Planning deals with defining a desired future and specifying how one proposes to move from the present toward the desired. In land use planning we usually have dealt with issues of land allocation and appropriate use at a scale different from project planning, with projects nested within the strategic or allocation plan. At both scales, however, we are dealing with the intersection of demand and supply, with our desired future on the demand side and the available resources on the supply side of the equation. Given that the planning rule suggests that forest planning is strategic and aspirational (I’m not even sure this is a word), and that it deals with guidance and information, and not decisions, one must wonder if this really is an exercise in definition of desired futures (a necessary, but not sufficient part of planning) that really does not matter because no decisions are made.

The justification for the no decision rule seems to be that we cannot set a course because the social, economic, and environmental situations are dynamic. But, planning theory has made it clear that plans are not one time decisions, but rather dynamic decisions subject to modification due to change as one moves toward a desired future. For a long time, concepts of adaptive management have been recognized as part of planning. So, does the rule really deal with planning?

The notion of “to what we aspire” is fundamental to planning. But, “to what we aspire” is a decision about what we want and where we want to be in the future. Once we have indicated to what we aspire, the rule speaks to frameworks and guidelines to get us there. Once we adopt these, then are decisions made? The rule seems to suggest, no. But if the

answer is no, then they really are not frameworks and guidelines in which projects are nested. What we have done is left the projects to the desires of the project developer.

The chatter in the rule about collaboration and public involvement seems to ignore that people care about both strategic (things to which we aspire and broad resource allocation) and tactical issues. They are unlikely to participate in something that does not lead to anything real (decisions). There are issues of allocation and policy that interest people and there are issues of project implementation that interest them. To leave all of the important and tough decisions to the project realm suggests a lack of interest in public engagement in allocation and policy issues. Once people discover that forest planning has little meaning, why will they participate?

The change in the statement about science from the 2002 draft to the 2004 final rule raises a question regarding whether or not sustainability is a serious goal of the rule. The change from “consistent with” the best available science to “take into account” on the surface seems like a minor word change. But, from a sustainability perspective it is huge. If the best available science suggests that certain actions are necessary to ensure perpetuity of something, but once having taken account of that scientific finding, and then dismissing it as being unimportant, have we not said that sustainability is unimportant? That is curious for a rule that purports to focus on sustainability as a guiding principle.

One must wonder if the Forest Service actually has the tools to do the job that is suggested by the new rule. This is a rule that is described as steering the Forest Service in a direction 180 degrees from what it has been doing, and learning, over the past 25+ years. A quick review of the prototype forest plans suggests to me that the Forest Service has a lot to develop to even do the planning sensibly. For example, the land use zone vs. recreation activity matrix used in these plans mixes land character and use classes on one axis and ignores a lot of what we know about recreation on the other. Add to this the laudable, but totally untried, Environmental Management System (EMS), and one might suggest that Forest Plans of any substance will be a long time in development. EMS has never been implemented at the scale suggested by the rule, and given that the Forest Service often has tried to develop systems to the nth degree, it might be bogged down in EMS development for a long time. Also, given the record to date of Forest Service monitoring and evaluation one might wonder if this new EMS system will mean any more than past systems. Maybe it will, maybe it will not, but if it is to be useful the culture of the Forest Service will need to change a lot.

For much of its first 100 years the Forest Service was described as a can do, action oriented agency. In recent years it often has been described as a planning agency. Now, with EMS will it become the “monitoring” agency? I wonder if we are just substituting monitoring for planning to make us appear adaptive.

Lawyers looking at the new rule have raised many issues regarding the apparent abandonment of NEPA in the rule and the movement of rule standards to a directives system. This seems particularly problematic given the project exclusions of NEPA in the

Healthy Forest Recreation Act; NEPA is marginalized on both ends of planning. But, I leave to lawyers' substantive comment on these issues.

However, one social point is clear. To understand what the Forest Service is doing for any forest plan or for any project, vast amounts of time and searching will be required for any engaged citizen. Forest Service directives can be measured both in pounds and liner feet of bookshelf and the number of places one must look for all of the applicable directives is astounding. Such does not make for a very transparent planning system and one where citizen collaboration and participation are encouraged. What it does is make a place for participation by those who are paid by special interests to be involved; those whose job it is to dig out all the directives. A second point of potential confusion is the requirement to make recommendations on designation of Wilderness and special areas. It would seem that if these are included in a plan, a NEPA document is required, and thus an EIS cannot be relegated to project level planning.

What should be done?

The simple answer to my question is that the Forest Service needs to rewrite the rule in plain English to clearly define planning and how it is to be conceptualized. That is too simple, though, so here are a few more specific things that might be done.

1. Develop a process that is clear and transparent, that meets the needs of people. Transactive, collaborative processes for planning are well described in the planning literature and they are good candidates for a new forest planning model and rule. They would involve working with interested publics in developing the best baseline information for the planning (regional and forest information), developing desired future conditions for forests and grasslands and associated communities and regions, gleaning the best ideas agreed upon for how to reach the desired conditions, and monitoring and evaluating how well a plan is working and whether or not it remains relevant. Such processes put the Forest Service in the roles of facilitating collaboration and providing analyses for collaborators, eventually deciding to accept or reject the outcomes of the collaborative processes, and facilitating monitoring and evaluation so that direction adapts to changing realities. In the case of forest planning, these decisions are about desired conditions, land allocations, and constraints. They are the essence of what we have been viewing over the past 20 years as dynamic Ecosystem Planning and Management (i.e. large scale, collaborative, integrative, and adaptive).
2. Develop a process that makes clear demarcation between forest plans and project plans. Forest plans should not drive all substance to project plans, where it is impossible to deal with large scale integrative issues, and impossible to deal with issues of land allocation to meet desired futures.
3. Acknowledge that strategic plans and plans of aspiration are decisions about direction and eventual outcomes.

4. Estimate the effects of plan decisions through NEPA processes. For example, if future landscapes are to be projected, if social sustainability is to be projected, and if economic sustainability is to be projected, should we not evaluate the consequences of the choices we have before us and the consequences of directions chosen?
5. Make explicit that monitoring and evaluation are integral to performance assessment, plan revision, and fundamentally to national policy that indicates we are to "...encourage productive and enjoyable harmony between man and his environment..." (42 U.S.C. 4331) EMS might be a right "process jargon" for this, but we need an EMS that is applicable and tested at the scale we are considering. Short of that we need a rule that is much clearer about parameters for monitoring and evaluation.

During the past week, I had the opportunity to speak with planners from Regions 1 and 2. Both people are emerging leaders in the Forest Service, and quite bright people. One of them suggested that it was really hard to tell what the new rule means and directs. The other indicated that it appears that all of the tough decisions are being moved to the project level, and woe to the first project to come forth because all analysis for the whole forest will be on the back of that project. Neither of these perspectives seems very optimistic for the new planning rule.